

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Tobias Smith,

Civil No. 08-6113 (RHK/JJK)

Petitioner,

**ORDER**

v.

Connie Roehrich,

Respondent.

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The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeffrey J. Keyes dated September 4, 2009. No objections have been filed to that Report and Recommendation in the time period permitted.

Based upon the Report and Recommendation of the Magistrate Judge, upon all of the files, records, and proceedings herein, **IT IS ORDERED:**

1. The Report and Recommendation (Doc. No. 18) is **ADOPTED**;
2. The Amended Petition under 28 USC § 2254 for Writ of Habeas Corpus by a Person in State Custody (Doc. No. 14), is **DENIED**;
3. Petitioner's Motion Requesting an Stay of Petitioner's Amended Petition and Proceeding in Order to Exhaust State Court Remedies in a Post-conviction Proceeding (Doc. No. 15), is **DENIED**; and
4. This action is **DISMISSED WITH PREJUDICE**.

Dated: October 27, 2009

s/Richard H. Kyle  
RICHARD H. KYLE  
United States District Judge